

July 27, 2000

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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**RECONSIDERED REPORT AND DECISION;
PROPOSED PLAT OF VASHON MEADOWS**

SUBJECT: Department of Development and Environmental Services File No. **L98P0028**

VASHON MEADOWS
Preliminary Plat Application

Location: Along the west side of Vashon Highway Southwest, situated just north
of 18623 Vashon Highway Southwest (Lutheran Church)

Applicant: Vashon Island Partnership, LLC, *represented by*
Joel Haggard
Suite 1200, IBM Building
1200 Fifth Avenue
Seattle, WA 98101
Telephone: (206) 682-5635 Facsimile: (206) 623-5263

King County: Department of Development and Environmental Services,
Land Use Services Division, *represented by*
James Weaver
900 Oakesdale Avenue SW
Renton, WA 98055
Phone: (206) 296-7095 Facsimile: (206) 296-7051

PLAT SUMMARY OF RECOMMENDATIONS/DECISION:

Department's Preliminary Recommendation:	Approve, subject to conditions
Department's Final Recommendation:	Approve, subject to conditions
Examiner's Decision:	Approve, subject to conditions

PRELIMINARY MATTERS:

Plat Application submitted:	August 7, 1998
Complete application:	December 7, 1998

EXAMINER PROCEEDINGS:

Hearing Opened:	June 6, 2000
Hearing Closed:	June 6, 2000
First Report issued:	July 11, 2000
First appeal period expired:	July 25, 2000

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

RECONSIDERATION:

The Applicant filed timely appeal of the July 11, 2000 Report and Decision. Upon close of the appeal period, July 25, 2000, the Examiner *sua sponte* initiated reconsideration.

ISSUES/TOPICS ADDRESSED:

- | | |
|----------------------------------|---------------------------|
| • Density (subdivisions) | • Right-of-way dedication |
| • Downstream impacts | • Streams |
| • Open space | • Water availability |
| • Public water availability | • Wildlife habitat |
| • Road design and road standards | |

SUMMARY:

Approves subdivision of 11.56 acres into 12 single-family residential building lots within area designated "Vashon Town Center." Arterial right-of-way dedication requirement reduces probable lot yield to eleven, unless variance from King County Road Standards (KCRS) is obtained.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:**1. General Information.**

Owner/Developer:	Vashon Island Partnership, LLC PO Box 2523 Auburn, WA 98071 (253) 735-8500
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Engineer:	Touma Engineers & Land Surveyors 6632 South 191 st Place, Suite E-102 Kent, WA 98032 (425) 251-0625
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STR: NE1/4 SE1/4 31-23-3

Location: The site is located along the west side of Vashon Highway SW, situated just north of 18623 Vashon Highway SW (Lutheran Church).

Zoning: R-1/R1-SO
 Acreage: 11.56 acres
 Number of Lots: 12 lots
 Density: Approximately .96 dwelling units per acre
 Lot Size: Ranges from 12,370 to 21,100 square feet
 Proposed Use: Detached single family residences
 Sewage Disposal: Vashon Sewer District
 Water Supply: King County Water District #19 (8 units)
 Private well system (4 units)
 Fire District: King Count Fire District #13
 School District: School District #402
 Complete Application Date: December 7, 1998

2. **Preliminary Plat Proposal; Department Recommendation.** This reconsidered report reviews the Examiner's July 11, 2000 Report and Decision regarding the proposed plat of Vashon Meadows.

On May 23, 2000, the Department recommended granting preliminary approval to the proposed plat of Vashon Meadows, subject to the 16 conditions of final plat approval contained on pages 13 through 17 of the Department's Preliminary Report to the Hearing Examiner (Exhibit No. 2). The proposed plat would subdivide an 11.56-acre parcel located within the designated Vashon Town Center area into 12 single-family residential lots, with approximately half of the parcel remaining in open space. Thus, overall proposed density is .96 dwelling units per acre, with lot sizes ranging from approximately 12,370 to 21,100 square feet.

Due to the matters considered in Finding No. 4, below, the Department recommended that the number of units (building lots) be reduced from 12 to 11. The initial approvable base density for Vashon Meadows allowed 11.56 lots. The Department had "rounded-up" that allowable density to 12 lots. However, the dedication of a 20-foot wide strip of land for Vashon Highway right-of-way would result in an authorized build-out of fewer than 11.50 lots, thereby resulting in a "rounded-down" recommendation of only 11.0 building lots. The Examiner's first report and decision adopted the Department's recommendation, expressed in the now appealed Condition No. 3 (that explicitly limits the development to eleven lots).

3. **SEPA Threshold Determination Appeal.** On June 23, 1999, the Department issued a threshold determination of non-significance in accordance with the State Environmental Policy Act. In response to posting errors, the Department re-issued the threshold determination on July 14, 1999. The determination, based upon the Applicant's environmental checklist and a variety of relevant environmental documents, resulted in a conclusion that the proposed development of Vashon Meadows would not cause "probable significant adverse impacts on the environment." Therefore, an Environmental Impact Statement has not been required. Henry and Nancy Silver

appealed the threshold determination. They did not request any particular actions or remedies or outcomes; but rather, requested further study and review regarding certain topics of concern.

The Silver appeal was heard on June 6, 2000 and a final decision issued July 11, 2000. In that decision the Examiner denied the SEPA appeal. The relevant findings, conclusions and decision contained the Examiner's Report of July 11, 2000 are adopted here by this reference. They remain in full effect, unchanged. All environmental documents contained in that review record are incorporated in this record.

4. **Applicant's Response and Appeal.** Vashon Island Partnership (the "Applicant") accepted the Department's June 6, 2000 recommendation, with one exception. The Applicant opposed Recommended Condition No. 8.h, particularly as it would affect the number of permitted lots. Recommended Condition No. 8.h requires the following:

The Vashon Highway is classified by King County as a principal arterial. Pursuant to KCC 19.08.160, (20) feet of right-of-way dedication shall be provided.

This requirement combined with the base density requirements of the R-1 zoning classification would result in the loss of one lot, resulting in an eleven lot subdivision. This concern is reviewed further in Finding No. 5, below.

In the Applicant's appeal from the Examiner's July 11, 2000 Report and Decision, the Applicant argues *unconstitutional taking* due to Recommended Condition No. 8.h., but states "Applicant basically appeals recommended Condition 3 limiting the property to 11, instead of 12, lots." (See Section II of appeal "RELIEF REQUESTED.")

By providing relief from the disputed Condition No. 3 language, the Applicant will be freed to seek a variance from the King County Road Standards cited in Recommended Condition No. 8.h.

5. **Right-of-Way Dedication Requirement.** As noted in Finding No. 3, preceding, the Applicant opposes the Department's recommendation to require a 20-foot wide dedication of right-of-way to the Vashon Highway upon which the subject property fronts and from which the proposed development obtains its only access. At 11.56 acres, the subject property only barely qualifies for a 12-lot subdivision at the density authorized by the R-1 zoning classification. Because the acreage exceeds 11.50 acres by 0.06 acres, the acreage is theoretically "rounded up" to 12 in order to authorize 12 building lots. The right-of-way dedication requirement would reduce the parcel size by approximately 16,112 square feet, an amount substantially greater than 0.06 acres (approximately 2,613 square feet). Thus, with the smaller parcel size resulting from the dedication requirement, the parcel would qualify for only 11 building lots. For this reason, the Applicant opposes the Vashon Highway right-of-way dedication requirement.

The following findings are also relevant:

- a. KCC 19.08.160 specifies that new subdivisions must dedicate right-of-way where designated in the County Highway Plan. The Vashon Highway is classified as a principal arterial and is required to have a 100-foot right-of-way. King County Road Standards (KCRS), Section 2.02.

- b. KCC 21A.06.1172 states:
- Site area shall be to the total horizontal area of a project site, *less the following*:
- Areas below the ordinary high water mark;
 - *Areas which are required to be dedicated on the perimeter of a project site for public rights-of-way. (Emphasis added.)*
- c. The purpose of requiring additional right-of-way dedication is to accommodate and mitigate the long-term cumulative traffic and community impact resulting from land development (increasing population) along the arterial street. The long-term cumulative demand growth for moving people within the community includes bicycle and/or pedestrian projects, called “non-motorized project needs” in chapter 9 of the 1994 King County Comprehensive Plan. See Exhibit No. 30. This segment of the King County Comprehensive Plan anticipates “separate bicycle and/or pedestrian improvements” along the Vashon Highway northward from SW Cemetery Road to SW Bank Road. The subject property fronts Vashon Highway at approximately mid-point between SW Cemetery Road and SW Bank Road. Citing this comprehensive plan element, the Department opposes the Applicant’s request to amend Recommended Condition No. 8.h to allow for a King County Roads Standards variance, Finding No. 5.d, notwithstanding.
- d. On June 30, 1997, in the case of another property located along Vashon Highway, the King County Road Services Division issued a variance from KCRS 2.02.K granting exception from the additional right-of-way dedication. Exhibit No. 25. The facts and analysis contained in that review differ from the instant case in several respects. First, the June 30, 1997 action fails to consider the 1994 King County Comprehensive Plan “Non-Motorized Transportation Needs” element. Second, the June 30, 1997 variance decision addressed a commercial property (a proposed animal clinic) within the commercial portion within the Vashon town center that comprised an *existing* building located only 8 ½ feet from the property line bounding Vashon Highway. In that case, the Applicant provided a drawing that demonstrated that most of the Vashon town center commercial buildings were located “near the existing right-of-way line.” In that case, the Applicant argued that compliance with KCRS Section 2.02 “will force the demolition of approximately 33 of the 42 buildings in the town.” Further, the record regarding that decision includes photographs depicting street widening and sidewalk improvements within the commercial area based upon current right-of-way. None of the facts that led to the June 30, 1997 variance decision apply in this case.
- e. The disputed Condition No. 3 does not require frontage improvement—only dedication of right-of-way to accommodate an adopted County plan.
- f. The Examiner has no authority to consider variances from KCRS standards in formal subdivisions except when those variances may affect fundamental statutory bases for plat acceptance. This fact is discussed further in Conclusion No. 2., below.
6. **Department Report Adopted.** Except as noted above, the facts and analysis contained in the Land Use Services Division Preliminary Report dated June 6, 2000 are correct and are

incorporated here by reference. A copy of the Land Use Services Division report will be attached to those copies of the examiner's report which are submitted to the King County Council.

7. **Conclusions Adopted As Findings.** Any portion of any of the following conclusions that may be construed as a finding is incorporated here by this reference.

CONCLUSIONS:

1. Any portion of any of the above findings that may be construed as a conclusion is incorporated here by this reference.
2. The Appellants' arguments regarding unconstitutional taking will not be addressed here because, by making the change to Condition No. 3 indicated below, that is no longer an issue before the Examiner. Condition No. 3 will be changed to require only compliance with the density, lot area, and dimensional standards contained in the zoning code—without specifying any particular outcome or “density cap.” The “density cap” recommended by the Department and adopted by the Examiner in his July 11, 2000 Report and Decision will be eliminated. This revision is made not due to takings analysis, but due to the Examiner's lack of authority with respect to KCRS variances. In 1996, the Council—while affirming the Examiner's KCRS variance review authority in the case of short subdivisions--eliminated the Examiner's road variance authority with respect to formal subdivisions. KCC 20.20.020. Thus, the Examiner has no authority to delete or diminish the right-of-way dedication requirement in Condition No. 8.h. KCC 20.20.020 leaves that decision within the sole jurisdiction of the King County Road Services Division.¹
3. Condition No. 8.b. provides the Applicant an opportunity to employ the administratively proper procedures to seek variance from the right-of-way requirements contained in KCRS Section 2. KCRS Section 1.08, adopted by KCC 14.42 grants that review authority to the King County Department of Transportation, Road Services Division.
4. Not only has DDES and the Examiner no authority to grant a variance from the KCRS, they have no authority to deviate from KCC 19.08.160 (which requires dedication of right-of-way, “Where the master plan and/or the county highway plan indicates the necessity...).
5. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, Subdivision and Zoning Codes, and other official land use controls and policies of King County.
6. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare and for open spaces, for

¹ RCW 58.17.110 surely grants the Examiner authority to rule in road standard matters affecting the minimum statutory principles of subdivision acceptability, and affecting essential health, welfare and safety. Such concerns do not appear at issue in this case, however.

drainage ways, streets, other public ways, transit stops, potable water supply, sanitary wastes, parks and recreations, playgrounds, schools and school grounds, and safe walking conditions for students who only walk to school; and it will serve the public use and interest.

7. The conditions for final plat approval recommended below are in the public interest and are reasonable requirements to mitigate the impacts of this development upon the environment.
8. The dedications of land or easements within and adjacent to the proposed plat, as recommended by the conditions for final plat approval or as shown on the proposed preliminary plat submitted by the applicant, are reasonable and necessary as a direct result of the development of this proposed plat.
9. Regarding SEPA, see Finding No. 3, above.

RECONSIDERED DECISION: PRELIMINARY PLAT.

The proposed plat of Vashon Meadows, as described in the Applicant's preliminary plat drawing, Exhibit No. 7 of this hearing record, is **GRANTED PRELIMINARY APPROVAL**; *subject* to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the base density requirements of the R-1-SO zone classification. All lots shall meet the minimum dimensional requirements of the R-1 zone classification and shall be generally as shown on the face of the approved preliminary plat, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services. This may result in the reconfiguration and/or loss of lots.
4. The Applicant must obtain final approval from the King County Health Department (Note: Private well proposed to serve four (4) lots.)
5. All construction and upgrading of public and private roads shall be done in accordance with the King County' Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
6. The Applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
7. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following

conditions of approval, which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the surface Water Design Manual (SWDM) must also be satisfied during engineering and final review:

- a. Drainage plans and analysis shall comply with the 1998 King County Surface Water Design Manual Water Design Manual. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

“Single family residences constructed on lots created by this subdivision must provide perforated stub-out connections according to the details shown on the approved plans. All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with the plans on file.”
 - d. Storm water runoff control shall be provided using the KCRTS level two flow control standard. Water quality facilities shall also be provided using the basic water quality menu. The size of the proposed drainage tracts may need to increase to accommodate the required detention storage volumes and water quality designs. The runoff control facilities shall be located in a separate tract and dedicated to King County unless portions of the drainage tract are used for required recreation space in accordance with KCC 21A.14.180.
8. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:
- a. There shall be no direct vehicular access to or from Vashon Highway Southwest from those lots which abut it. A note to this effect shall appear on the engineering plans and final plat.
 - b. Modifications to the KCRS-based road conditions below may be considered by King County pursuant to the variance procedures in KCRS Section 1.08.
 - c. The on-site roadway shall be improved within public right-of-way as a rural subaccess street. As shown on the preliminary plat, a temporary cul-de-sac turn around shall be provided at the western terminus of the roadway.

- d. The short cul-de-sac turn around adjacent to lots 9-12 shall be improved as a rural minor access street.
 - e. No road frontage improvements are required along the Vashon Highway frontage.
 - f. As required by KCRS 5.03, street trees shall be included in the design of all road improvements.
 - g. Street illumination is required by KCRS 5.05 for the proposed intersection at the Vashon Highway.
 - h. The Vashon Highway is classified by King County as a principal arterial. Pursuant to KCC 19.08.160, twenty (20) feet of right-of-way dedication shall be provided. See, however, Condition No. 8.b., above.
- 9. The Applicant must obtain final approval from King County Water District No. 19 prior to recording.
 - 10. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
 - 11. The Applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The Applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
 - 12. The proposed subdivision shall comply with the KCC 21A.24, environmentally sensitive areas including the following requirements:
 - a. The following note shall be shown on the final engineering plan and recorded plat:

**RESTRICTIONS FOR SENSITIVE AREA TRACTS AND
SENSITIVE AREAS AND BUFFERS**

Dedication of a sensitive area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/sensitive area and buffer. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The sensitive area tract/sensitive area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/sensitive area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/sensitive area and buffer. The vegetation within the tract/sensitive area and buffer may not be cut, pruned,

covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/sensitive area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the sensitive area tract/sensitive area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

- b. The Class 3 wetlands shall have a 25-foot buffer of vegetation as measured from the wetland edge;
 - c. A 15-foot BSBL shall be established from the edge of buffer and shown on the face of the plat;
 - d. Sensitive area tracts shall be used to delineate and protect sensitive areas and buffers in development proposals for subdivisions and shall be recorded on all documents of title of record for all affected lots;
 - e. Prior to commencing construction activities on the site, the Applicant shall mark sensitive areas tracts in a highly visible manner, and these areas must remain so marked until all development proposal activities in the vicinity of the sensitive areas are completed;
 - f. Prior to final approval of construction activities on the site, the boundary between the sensitive area tracts and adjacent land shall be identified using permanent signs and fencing. Sign and fencing specifications shall be shown on approved plans; and prior to final recording, the plan set shall be routed to the sensitive areas group for review and approval.
13. Suitable recreation space shall be provided consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.) The Applicant will provide either 4,290 square feet of recreation space within Tract B, with access from the plat provided by a minimum of 15-foot wide extension of Tract B; or 3,237 square feet of recreation space with Tract B and adjacent to the stormwater detention pond in compliance with KCC 21A.14.180D, with access from the plat provided by a minimum of 15-foot wide extension of Tract B.
- a. An overall conceptual recreation space plan shall be submitted for review and approval by DDES, with the submittal of engineering plans. This plan shall include location, area calculations, dimensions, and general improvements. The approved engineering plans

shall be consistent with the overall conceptual plan.

- b. A detailed recreation space plan (i.e., landscape specs, equipment specs, etc.) consistent with the overall conceptual plan, as detailed in item a., shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of the final plat documents.
 - c. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
14. A homeowner's association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation areas, open space areas, and sensitive area tracts.
15. Street trees shall be provided per KCRS 5.03, as follows:
- a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along Vashon Highway SW and proposed SW 185th Street and 100th Court SW. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
 - c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
 - d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the County has adopted a maintenance program. This shall be noted on the face of the final recorded plat.
 - e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
 - f. The Applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
 - g. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.
 - h. A \$538 landscape inspection fee shall also be submitted prior to plat recording. The

inspection fee is subject to change based on the current County fees.

16. Final plat approval shall require full compliance with the Satellite Water System Agreement with King County Water District No. 19. In accordance with the Satellite Water System Agreement, a performance bond must be posted to King County Water District No. 19 prior to recording of the plat. Once a performance bond is posted, the satellite water system must be installed and

inspected within one year of recording of the plat. At the time of inspection, if the satellite water system is found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for two years. After two years, the maintenance bond may be released after King County Water District No. 19 has completed a second inspection and determined that the satellite water system is functioning correctly.

ORDERED this 27th day of July, 2000.

R. S. Titus, Deputy
King County Hearing Examiner

TRANSMITTED this 27th day of July, 2000, to the following parties and interested persons:

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Ken Pritchard
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Larry West
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MS OAK-DE-0100

NOTICE OF APPLICANT'S RIGHT TO REVISE OR REAFFIRM APPEAL

The Applicant has already paid the requisite appeal fee. Without payment of any new appeal fee, the Applicant, if the Applicant so chooses, may file a new notice of appeal (indicating intent to revise or reaffirm the previously filed statement of appeal) and a revised statement of appeal by the same deadlines indicated in the "NOTICE OF RIGHT TO APPEAL" following below. In the absence of such filing, this report and decision will be deemed accepted and scheduled for final action by the Council upon conclusion of this new appeal period.

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) *on or before August 10, 2000*. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council *on or before August 17, 2000*. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE JUNE 6, 2000 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L98P0028 – VASHON MEADOWS:

R. S. Titus was the Hearing Examiner in this matter. Participating in the hearing and representing the Department were James Weaver, Pete Dye and Nick Gillen. Participating in the hearing and representing the Applicant were Michael Meyer and Robert Terhune. Participating in the hearing and representing the Appellant was Nancy Silver. Other participants in this hearing were Stacie Bennett and John Brown.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 DDES File No. L98P0028
- Exhibit No. 2 DDES Preliminary Report to the Hearing Examiner, dated June 6, 2000
- Exhibit No. 3 Application, dated August 7, 1998
- Exhibit No. 4 Environmental Checklist, dated August 7, 1998
- Exhibit No. 5 Determination of Non-significance (DNS), dated July 14, 1999
- Exhibit No. 6 Affidavit of Posting indicating January 16, 1999 as date of posting and January 25, 1999 as the date the affidavit was received by DDES.
- Exhibit No. 7 Plat Map dated January 22, 1999
- Exhibit No. 8 Land Use Map (Kroll) E 31-23-3, W 32-23-3
- Exhibit No. 9 Assessors Maps SE 31-23-3, SW 32-23-3, NW 32-23-3, NE 31-23-3
- Exhibit No. 10 Wetland Assessment Report, dated January 22, 1999
- Exhibit No. 11 Level One Drainage Analysis, dated August 7, 1998; revised December 3, 1998
- Exhibit No. 12 Letter of Appeal, DDES File No. A99AP304, received July 6, 1999
- Exhibit No. 13 KC Hearing Examiner Pre-Hearing Order, dated August 19, 1999
- Exhibit No. 14 KC Hearing Examiner Order of Continuance, dated September 20, 1999
- Exhibit No. 15 KC Hearing Examiner Notice of Hearing, dated April 25, 2000
- Exhibit No. 16 1996 Vashon Town Plan Excerpt—Landmark Trees
- Exhibit No. 17 E-mail from Charlie Sundberg to James Weaver, received September 21, 1999
- Exhibit No. 18 Plat Density Worksheet for Vashon Meadows, DDES File No. L98P0028
- Exhibit No. 19 Letter from Touma Engineers to Pete Dye, received July 29, 1999
- Exhibit No. 20 Letter from KC Dept. of Health to Tom Touma, dated December 2, 1998

- Exhibit No. 21 Letters from King County Water District No. 19 (A, B, C, D, E, F, G H, I, J and K)
- Exhibit No. 22 Copy of page B4 from the Vashon Town Plan
- Exhibit No. 23 Ten letters from Vashon Community members to the Hearing Examiner (with brochure titled Ellisport Creek Watershed Stories as told by its neighbors, attached to Ms. Spier's letter)
- Exhibit No. 24 Six photographs submitted by Ms. Bennett
- Exhibit No. 25 Letter regarding road variance issued for Fair Isle Animal Clinic, dated June 30, 1997
- Exhibit No. 26 King County Arterial Map
- Exhibit No. 27 Sensitive Areas folio, streams and 100-year floodplains
- Exhibit No. 28 Group A Water Systems That Have Met Planning Requirements, dated June 19, 1999

- Exhibit No. 29 Copy of the Document of Agreement between King County Water District No. 19 and Robert Terhune, dated August 11, 1999
- Exhibit No. 30 King County Bicycle Plan
- Exhibit No. 31 Black and white photocopy of four photos depicting stumps